

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF OKLAHOMA**

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	Case No. CR-23-00008-JD
	)	
ISAAH CLINTON MCGILL,	)	
ADRIAN CONDE AVILES,	)	
SAMMY DEAN FOSTER,	)	
JENNIFER HANNAH SIMPSON,	)	
TORREY LAMAR CERTAIN,	)	
BLAINE RYAN BASSLER, and	)	
ALLISSA MARIE REPASY,	)	
	)	
Defendants.	)	

**ORDER**

On February 14, 2023, the Court granted the parties' motion to continue trial to September 12, 2023, and entered a pretrial order with pretrial submission deadlines as proposed by the parties. [Doc. Nos. 90, 91]. As part of the Court's pretrial order, the Court imposed a deadline of May 5, 2023, for any motion for *James* hearing. [Doc. No. 91-1 at 1]. The pretrial order imposed a deadline of May 26, 2023, for the United States to respond to a motion for *James* hearing and a deadline of June 16, 2023, for the United States to file a summary of evidence for *James* hearing purposes only. *Id.*

On May 3, 2023, Defendant Jennifer Hannah Simpson filed a timely Motion for Hearing pursuant to *James* and *Urena*.<sup>1</sup> [Doc. No. 99]. The government did not file a

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<sup>1</sup> The Tenth Circuit adopted *United States v. James*, 590 F.2d 575 (5th Cir. 1979) in *United States v. Urena*, 27 F.3d 1487 (10th Cir. 1994).

response. Since the motion seeks only entry of an order setting a *James* hearing and is apparently unopposed, the Court grants the request for the *James* hearing.

“Under Tenth Circuit law, a district court can only admit coconspirator statements if it holds a *James* hearing or conditions admission on forthcoming proof of a ‘predicate conspiracy through trial testimony or other evidence.’” *United States v. Townley*, 472 F.3d 1267, 1273 (10th Cir. 2007) (quoting *United States v. Owens*, 70 F.3d 1118, 1123 (10th Cir 1995)). The Tenth Circuit has “repeatedly” stated, however, “[its] strong preference for *James* proceedings.” *Townley*, 472 F.3d at 1273 (quoting *United States v. Gonzalez-Montoya*, 161 F.3d 643, 648 (10th Cir. 1998)); *see also United States v. Hernandez*, 829 F.2d 988, 993–94 (10th Cir. 1987). “The order of proof is within the discretion of the trial judge.” *United States v. Troutman*, 814 F.2d 1428, 1448 (10th Cir. 1987) (citations omitted). “[A]bsent some substantial reason, the preferred order of proof should be adhered to,” and “[f]ailure to follow the preferred order would be the rare exception rather than the rule.” *See id.* (citations omitted).

IT IS THEREFORE ORDERED that the United States shall file an appropriate notice, as required by the pretrial order [Doc. No. 91-1 at 1], by **June 16, 2023**, disclosing the alleged statements that are proposed for admission and, as to each statement, identifying the alleged co-conspirator who made the statement, the person to whom it was made, when the statement was made, and a general summary of the content of the statement. The notice shall also include, as to Defendant Jennifer Hannah Simpson, a compendium of the defendant’s co-conspirator statements.

IT IS ORDERED that the *James* hearing will be held on **July 17, 2023, at 10:00 a.m.**

IT IS SO ORDERED this 6th day of June 2023.

A handwritten signature in black ink, appearing to read "Jodi W. Dishman", written over a horizontal line.

JODI W. DISHMAN  
UNITED STATES DISTRICT JUDGE